



UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: : Gloria M. Hale
Marcus K. Williams : Examiner
For: Protective Undergarment :
for a Football Player : Art Unit No. 3765
Serial No. 10/679,088 :
Filed: October 3, 2003 :

REPLY TO EXAMINER'S RESPONSE

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I. Real Party in Interest

Marcus K. Williams is the real parties in interest.

II. Related Appeals and Interferences

There are no other related appeals and no related interferences.

III. Status of Claims

There is one claim, Claims 3. Claim 3 has been rejected. Claim 3 is being appealed.

IV. Status of Amendments

The amendment that the applicants filed subsequent to final rejection has been entered by the Examiner.

V. Summary of Claimed Subject Matter

The first embodiment of the invention is a protective undergarment for a football player (Page 25, lines 2 through 11). The undergarment is formed out of a thin, stretchable fabric. The undergarment has an internal surface. The undergarment 11 is formed out of a stretchable fabric, such as lycra. As shown in Fig. 1 in conjunction with Fig. 2 and Fig. 3 a football player wears a protective undergarment 10. The protective undergarment 10 includes an undergarment 11 and a plurality of protective pads 12. The protective pads are disposed separately from the undergarment 11. The undergarment 11 has a plurality of internal pockets 21. Each protective pad 12 corresponds in shape to one of the internal pockets 21 and may be inserted therein. All of protective pads 12 have been inserted into the internal pockets 21.

The second embodiment of the invention is a protective undergarment for a football player who plays a “skill” position (Page 25, lines 15 through 18 and Page 26, lines 1 through 4). The undergarment is formed out of a thin, stretchable fabric. The undergarment has an internal surface. The undergarment 111 is formed out of a stretchable fabric, such as lycra. As shown in Fig. 4 a football player wears a protective undergarment 110. The protective undergarment 110 includes an undergarment 111 and a plurality of protective pads. The protective pads are disposed separately from the

undergarment 111. The undergarment 111 has a plurality of internal pockets. Each protective pad corresponds in shape to one of the internal pockets 21 and may be inserted therein. All of protective pads have been inserted into the internal pockets.

VI. Grounds of Rejection to be on Appeal

The Examiner has rejected claim 3 under 35 U.S.C. 103(a) as being unpatentable over Sessoms (U.S. Patent No. 5,388,271) in view of Ross (U.S. Patent No. 5,134,726) and McGee (U.S. Patent No. 4,089,065).

VII. Reply to Examiner's Response to Argument

The Examiner rejected claim 3 under 35 U.S.C. 103(a) as being unpatentable over Sessoms (U.S. Patent No. 5,388,271) in view of Ross (U.S. Patent No. 5,134,726) and McGee (U.S. Patent No. 4,089,065). The Examiner contended that the applicant admitted the upper and lower components of Sessoms and Ross are similar to the protective garment that he had claimed in claim 3.

The Examiner is relying on Sessoms (U. S. Patent No. 5,388,271) to teach the upper portion of the protective undergarment of claim 3. The applicant respectfully disagrees and contends that this is an article of insulated apparel, the integral continuous parts of which include a body and appendages formed of an insulated, resilient fabric material and is not formed of elastically stretchable material. Furthermore the article of Sessoms does not have pockets with protective pads inserted therein. The article of insulated apparel further includes segmentally arranged supplemental insulation for insulating less mobile regions of a user's body, such as the upper and lower arms, and the upper and lower legs. The midriff and the upper torso may be insulated as well. By providing segmentally arranged supplemental insulation, that is, discontinuity in supplemental insulation over more mobile regions of the user's body, such as, for instance,

the shoulder, elbow, and wrist regions, the user is permitted to move more freely.

Referring to FIG. 1 of U. S. Patent No. 5,388,271 teaches an article of insulated apparel worn by a sports figure. This article of insulated apparel is worn predominantly covered by an outer layer of clothing, such as the jersey worn by the sports figure. The article of insulated apparel is in the form of a long sleeve shirt-like article comprising appendages, such as the sleeves 12 shown, which are substantially continuous with a body 14.

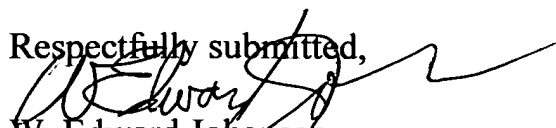
Referring to FIG. 2 of U. S. Patent No. 5,388,271 the body and sleeves are fabricated of a resilient, thermally insulated, first ply of fabric material which is comfortable to the sport figure and porous to permit moisture to escape therethrough, thereby keeping the user's body dry, and resistant to the cold ambient environment. The material may be natural, such as wool or cotton, or synthetic, such as nylon or polyester, or a combination thereof. One such fabric which is suitable for fabricating the body and sleeves is Synchronia fabric manufactured by Pentagonia of Ventura, Calif. Another suitable fabric is Polartec Series fabric manufactured by Malden Mills Industries, Incorporated of Lawrence, Mass. This machine washable fabric has 100% fiber content. The face of this fabric is surface finished as a low-pill, low velour pile to provide comfort for the user. These fabrics have

extremely fast wicking/siphoning abilities to keep the user feeling dry under active conditions and its anti-microbial prevents bacterial growth to help keep this fabric looking and smelling fresh. Alternatively, Malden Mills Industries, Incorporated offers Polartec Series 200 and 300 fabrics which progress in fabric thickness and weight and thus, offer greater insulation to the user from the cold ambient environment. It should be noted that though Polartec Series is a suitable fabric for the first ply of fabric material 16, similar fabrics may be employed.

U. S. Patent No. 5,134,726 teaches a pair of sports pants which includes protective pads. A trunk and legs are formed of elastically stretchable material with pockets in at least the hip and knee areas, and legs terminating in stirrup ends. At least groin, knee and hip areas have openable and closable pockets on interior surfaces of the pants for receipt of groin pads, hip pads, and knee pads of resilient foam material which are removable and replaceable in the pockets for protection of the wearer. The pads are removable for washing. Referring to FIG. 2 of U. S. Patent No. 5,134,726 (Ross) the pair of pants of Ross are similar to the lower portion of the protective undergarment of claim 3.

Dated: June 11, 2010

Respectfully submitted,


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Registration No. 26,744



VIII. Claims Appendix

3. (Previously submitted) A protective undergarment for a football player who has arms, an upper torso, a lower torso and legs, said protective undergarment comprising:

- a. an undergarment being formed out of a thin, stretchable fabric and having an internal surface wherein said undergarment is a full body suit covering the arms, the upper torso, the lower torso and the legs of the football player;
- b. a plurality of pockets wherein said plurality of internal pockets are disposed on said internal surface of said undergarment so that each one of said pockets has a corresponding shape and is disposed in a position to cover each one of the arms, the upper torso, the lower torso and the legs of the football player; and
- c. a plurality of protective pads each one of which corresponds in shape to the shape of each one of said pockets and may be inserted therein whereby the football player is protected not only from injuries to his knees, his hip, his back, his tailbone, his ribs, his elbow and his shoulder, but also from abrasion and other internal injuries.

X. Related Proceedings Appendix

FIG 1 and FIG. 2 of U. S. Patent No. 5,388,271

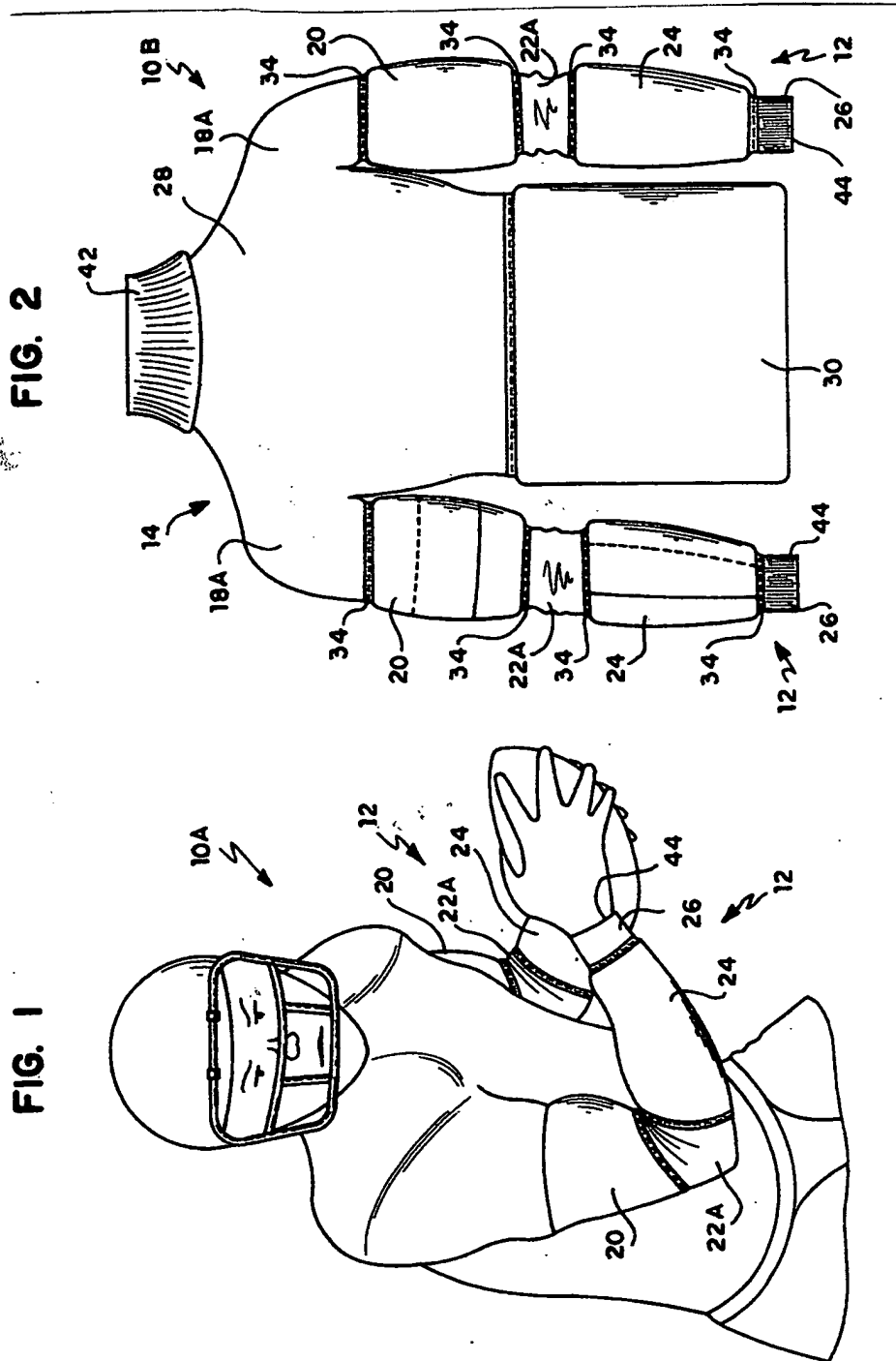


FIG 1 U. S. Patent No. 4,089,065

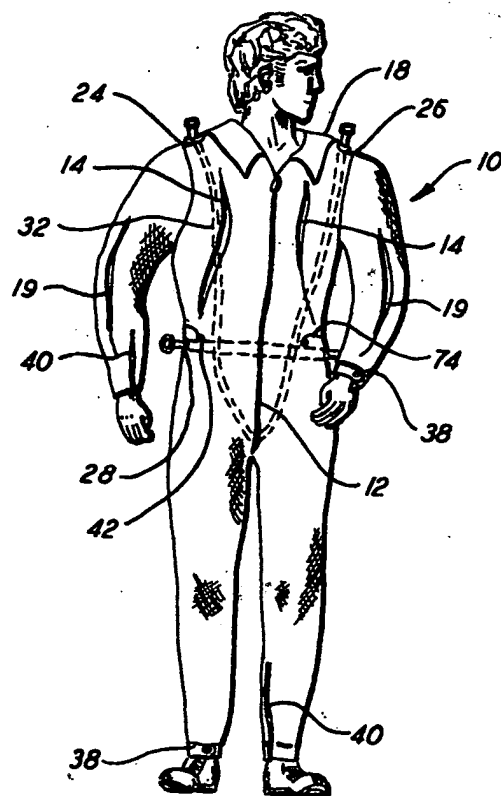
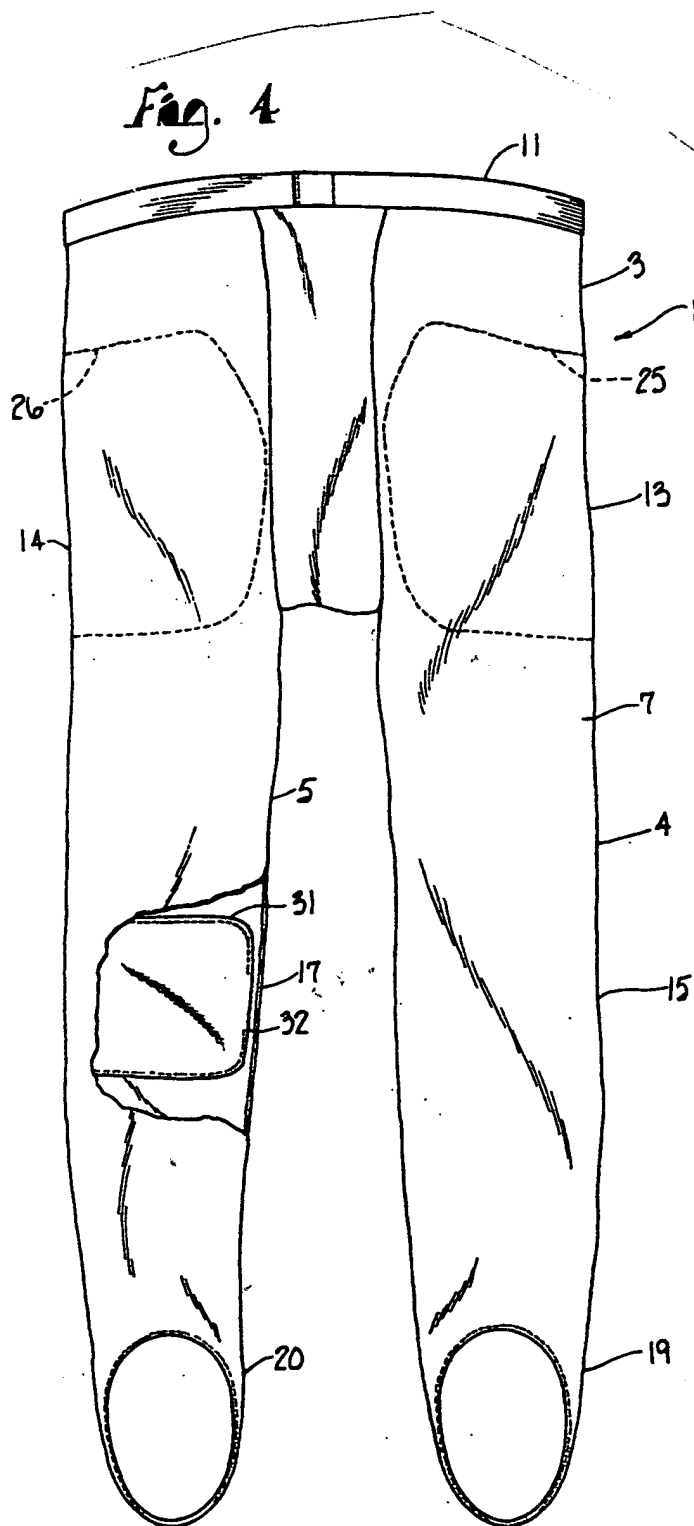


FIG 4 of U. S. Patent No. 5,134,726





IX. Evidence Appendix

None—There is no evidence being submitted.